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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,362	01/15/2004	Mariana Benitez Pelaez	LUTZ 2 00269	5292
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EXAMINER ELAHEE, MD S				
ART UNIT 2614		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/758,362

## Applicant(s)

PELAEZ ET AL.

## Examiner

MD S. ELAHEE

## Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed on 05/11/2009. Claims 1-18 are pending.

### ***Response to Arguments***

2. Applicant's arguments in the 05/11/2009 Remarks have been fully considered but they are not persuasive because of the following:

Regarding claim 1, the applicant argues on pages 7-8 that there is simply no teaching or suggestion of receiving a call at a network element (the integrated services network 120 described in Milewski is not a first *network element*, but rather a *network itself*, as described at column 3, line 1 of Milewski). Examiner made a typo mistake to represent network 120 as first network element. Examiner interprets element 160 in Fig.1 of Milewski as first network element. In col.4, line 28-col.5, line 4, Milewski discloses receiving a call at a called party's telephone 160 in Fig.1 [i.e., first network element].

The applicant further argues on page 8 that there is simply no teaching or suggestion of determining how to allocate resources such as tones (there is no discussion of playing tones in Milewski) and announcements with respect to a number of network elements. This argument is not relevant. It is because, the applicant did not claim allocate resources such as tones and announcements with respect to a number of network elements.

Thus, the rejection of the claim in view of Milewski and Lynn will remain. The rejection of the claim 10 will remain for the same reasons as discussed above with respect to claim 1.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 2, 4, 6-8, 10, 11, 13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milewski et al. (U.S. Patent No. 6,519,326) in view of Lynn (U.S. Patent No. 5,541,981).

Regarding claims 1 and 10, with respect to Figures 1-3, Milewski teaches in a multimedia communications network having a plurality of network elements, a method of assigning responsibility for playing tones and announcements to a network element, the method comprising:

receiving a call from a caller to a subscriber at a called party's telephone 160 in Fig.1 [i.e., first network element], as part of the call a tone or an announcement needs to be played to the subscriber (abstract; col.3, lines 35-46, col.4, line 28-col.5, line 4);

Milewski further teaches determining whether a pc 155 in Fig1 [i.e., second network element] is able to play the tone or the announcement (col.3, line 35-col.4, line 7);

Milewski further teaches playing the tone or the announcement through the second network element by utilizing speaker 156, if the second network element is able to play the tone or the announcement utilizing the speaker 156 (col.3, line 47-col.4, line 7);

Milewski further teaches attempting to locate a speaker 156 in Fig.1 [i.e., third network element] that is able to play the tone or the announcement and playing the tone or the announcement through the third network element, if the third network element is located (col.3, line 47-col.4, line 7).

However, Milewski does not specifically teach playing the tone or the announcement through the second network element, if the second network element is able to play the tone or the announcement as well as attempting to locate a third network element that is able to play the tone or announcement, if the second network element is not able to play the tone or the announcement. Lynn teaches playing the tone or announcement through the interface circuit [i.e., second network element], if the second network element is able to play the tone or the announcement as well as attempting to locate a speaker [i.e., third network element] that is able to play the tone or announcement, if the second network element is not able to play the tone or announcement (col.3, lines 24-37). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Milewski to incorporate the feature of playing the tone or the announcement through the second network element, if the second network element is able to play the tone or the announcement as well as attempting to locate a third network element that is able to play the tone or the announcement, if the second network element is not able to play the tone or announcement in Milewski's invention as taught by Lynn. The motivation for the modification is to do so in order to transmit announcement using another announcement unit in case of failure of one announcement unit.

Regarding claims 2 and 11, Milewski, as applied to claims 1 and 10, teaches that the first network element comprises a call session control function (fig.1).

Regarding claims 4, 6, 13 and 15, Milewski, as applied to claims 1, 2, 10 and 14, teaches that the third network element comprises a multimedia resource function processor (col.3, line 47-col.4, line 7).

Regarding claims 7 and 16, Milewski, as applied to claims 1 and 10, teaches that receiving data associated with the second network element and the third network element and using the data in determining where to play the tone or the announcement (fig.2; col.3, line 47-col.4, line 7).

Regarding claims 8 and 17, Milewski, as applied to claims 7 and 16, teaches that the data includes at least one of the load levels of the second and third network elements, the digital signal processing resources available at the second and third network elements, the internet protocol resources available at the second and third network elements, the time division multiplex resources available at the second and third network elements, the asynchronous transfer mode resources available at the second and third network elements, and the proximity of the third network element to the subscriber's location in the network (col.3, line 47-col.4, line 7).

7. Claims 3, 5, 9, 12, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milewski et al. in view of Lynn further in view of Deshpande et al. (U.S. Pub. No. 2006/0029048).

Regarding claims 3, 5, 12 and 14, Milewski in view of Lynn, as applied to claims 1, 2, 12 and 11, does not specifically teach that the second network element comprises an originating media gateway. Deshpande teaches that the second network element comprises an originating media gateway (page 4, paragraph 0030). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Milewski in view of Lynn to incorporate the the second network element comprising an originating media gateway in Milewski's invention in view of Lynn's invention as taught by Deshpande for providing receiving the status return message. The motivation for the modification is to do so in order to use an originating gateway to play prompt such that the prompt message coming from dissimilar network can be efficiently handled by the network.

Claims 9 and 18 are rejected for the same reasons as discussed above with respect to claims 2, 3 and 4.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period



will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MD S. ELAHEE whose telephone number is (571)272-7536. The examiner can normally be reached on Mon to Fri from 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MD S ELAHEE/

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MD SHAFIUL ALAM ELAHEE

Primary Examiner

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August 10, 2009